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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/650,045	08/29/2000	William T. Geddes Jr.	3503-0103P	8375

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EXAMINER
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THEIN, MARIA TERESA T

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 01/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/650,045

Applicant(s)

GEDDES JR. ET AL.

Examiner

Marissa Thein

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 75-85 and 92-101 is/are pending in the application.
- 4a) Of the above claim(s) 1-74, 86-91 and 102-154 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 75-85 and 92-101 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on September 26, 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6, 8. 6) ☒ Other: IDS 10-12, 14, 16.

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant's "Response to Restriction Requirement" filed on October 29, 2003 has been considered.

### ***Election/Restrictions***

Applicant's election with traverse of Group Three (III), claims 75-85 and 92-101 in Paper No. 15 is acknowledged. The traversal is on the ground(s) that the rejoinder of the various amended claims in connection with the present application and examination of each of pending claims 1, 3-21, 23-32, 34-41, 43-50, 52-60, 75-148, and 151-154 in connection with the present application now fall within the elected group III. This is not found persuasive because that even though the non-elected claims have been amended, they are still restrictable with respect to Group III.

The requirement is still deemed proper and is therefore made FINAL.

Claims 1, 3-21, 23-32, 34-41, 43-50, 52-60, 75-148, and 151-154 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention, there being no (allowable) generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 15.

Applicants are respectfully requested to cancel the non-elected claims in response to the Office Action.

### ***Information Disclosure Statement***

The information disclosure statements filed January 11, 2002 and October 2, 2002 fail to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S.

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and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

The "Letter Submitting Corrected PTO-1449" filed on October 3, 2002, which replaces Applicants' information disclosure statement (IDS) filed on October 2, 2002, does not list the same references. However, the "Letter Submitting Corrected PTO-1449" filed on October 3, 2002, which includes the corrected PTO-1449, was considered.

The information disclosure statement (IDS) filed on June 3, 2003; June 23, 2003; August 27, 2003; October 10, 2003; and October 29, 2003 are being considered by the examiner.

### ***Drawings***

The drawings filed on September 26, 2001 are acceptable.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**Claims 75-76, 78-81, 83-85, 93-95, and 98-100 are rejected under 35**

**U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

The method and system claims as presented do not claim a technological basis in the body of the claim. Without a claimed basis, the claim may be interpreted in an alternative as involving no more than a manipulation of an abstract idea and therefore

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non-statutory under 35 U.S.C. 101. In contrast, a method and system claims that include in the body of the claims at least one structural/functional interrelationship is considered to have a technological basis. All that is necessary to make a sequence of operations steps a statutory process within 35 U.S.C. 101 is that it be in the technological arts so as to be in consonance with the Constitutional purpose to promote the progress of “useful arts” *In re Musgrave*, 431 F.2d 882, 167 USPQ 280 (CCPA 1970).

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 75 and 81 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps.** See MPEP § 2172.01. The active method steps in the body of the claim do not recite an active step – which moves to carry out the goal. For example, a notification step is missing between the “determining” step and the “allocating” step.

**Claims 75 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.** The phrase “determining a business transaction proceeds allocation” is unclear. Further, method steps are needed to “determining a business transaction proceeds allocation”.

**Claim 75 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject**

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**matter which applicant regards as the invention.** The phrase “determined portion” is unclear and is not defined in the claim(s) and one of ordinary skill in the art would not be reasonably appraise of the scope of the invention. For examination purposes the phrase “determined portion” will be treated as a generic phrase.

**Claims 79, 83, 84, 95, and 100 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.** The phrase “predetermined percentage” is unclear and is not defined in the claim(s) and one of ordinary skill in the art would not be reasonably appraise of the scope of the invention. For examination purposes, the phrase “predetermined percentage” will be treated as a generic phrase.

**Claims 81 and 97 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.** The phrase “predetermined business transaction proceeds allocation” is unclear and is not defined in the claim(s) and one of ordinary skill in the art would not be reasonably appraise of the scope of the invention. For examination purposes, the phrase “predetermined business transaction proceeds allocation” will be treated as a generic phrase.

***Claim Warning – Duplicate Claims***

Applicant is advised that should claim 77 be found allowable, claim 82 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two

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claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim.

See MPEP § 706.03(k).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 75-85 and 92-101 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,105,001 to Masi et al.**

Regarding claim 75, Masi discloses a method comprising:

- determining a business transaction proceeds allocation between a plurality of entities (see at least col. 1, lines 48-61; col. 3, lines 35-57; col. 4, lines 4-14; Figure 1 and Figure 3);
- allocating, upon receiving notification of a business transaction, a determined portion of the business transaction proceeds to a first of the plurality of entities and allocating a determined portion to at least one additional entity (see at least col. 3, lines 35-57; col. 4, lines 38-56).

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Regarding claims 76-80, 82-85, 93-96, and 98-101, Masi discloses the notification is received from one of the plurality of entities (see at least col. 2, lines 49-55; col. 2, lines 64-67; col. 3, lines 4-7; Figure 1); the business transaction proceeds allocation is stored in memory (see at least col. 3, lines 45-53; col. 4, lines 4-14); the business transaction proceeds allocation includes a fixed fee per transaction for at least one entity (see at least Figure 3; col. 4, lines 47-56); the business transaction proceeds allocation includes a predetermined percentage allocation for at least one entity (see at least Figure 3; col. 4, lines 47-56); and sending the allocated determined portions of the business transaction proceeds to each of the first and at least one additional entity (see at least col. 3, lines 27-40; col. 5, lines 11-22).

Regarding claims 81 and 97, Masi discloses receive a fund distribution request based upon a business transaction (see at least col. 3, lines 40-53; col. 4, lines 4-14; col. 4, lines 38-41); and determination whether or not the fund distribution request is subject to a predetermined business transaction proceeds allocation, wherein the business transaction proceeds allocation is determine upon first determining that the fund distribution request is subject to a predetermined business transaction proceeds allocation (see at least col. 27-52; col. 3, line 58-col. 4, line 14).

Regarding claim 92, Masi discloses the a system comprising:

- a database, adapted to store at least one business transaction proceeds allocation between plurality of entities (see at least col. 1, lines 48-61; col. 3, lines 35-57; col. 4, lines 4-14; Figure 1 and Figure 3);



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- a controller, adapted to determine a business transaction proceeds allocation between a plurality of entities from the data base, and adopted to, upon receiving notification, allocate a determined portion of the business transaction proceeds to a first of the plurality of entities and allocate a determined portion to at least one additional entity (see at least col. 3, lines 45-57; col. 4, lines 4-14; Figure 1)

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,134,533 to Shell discloses a server system which integrates the collection of a payment via the network and the automatic distribution of the product with the calculation of commissions using a multi-level marketing commission structure and the distribution of commissions and fees via the network.

U.S. Patent No. 6,662,164 to Koppleman et al. discloses a method and apparatus for determining the commission to be paid to a sales representative or sales team.

U.S. Patent No. 6,609,113 to O'Leary discloses a system and method in which a payor purchases electronic credits to a payee using an Electronic Funds Transfer system.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa Thein whose telephone number is 703-305-5246. The examiner can normally be reached on M-F 8:30-5:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Smith can be reached on 703-308-3588. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

mtot  
January 11, 2004



Jeffrey A. Smith  
Primary Examiner